IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

Crl.MC.No. 1304 of 2007()

AGAINST THE ORDER IN CC 499 2000 IN
LP.81/2002 of JUDL.MAGISTRATE OF FIRST CLASS, SULTHANBATHERY

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PETITIONER: ACCUSED

N.M.ABDU,
S/O.N.K.MUHAMMED,
NALLAMOOVHICKAL HOUSE, KOLIYADI, NENMENI P.O.,
SULTHAN BATHERY.

BY ADV. SRI.C.C.ABRAHAM

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. P.C.MAMMU HAJI,
PULLONICHALIL HOUSE,
NOOLPUZHA POST, NOOLPUZHA, AMSOM DESOM,
SULTHAN BATHERY TALUK, WAYANAD.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1304 of 2007

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Dated this the 8th day of June, 2007

O R D E R

There is no representation for the petitioner. I have gone through the Crl.M.C. when it came up for admission hearing.

2. The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. He appeared before the learned Magistrate. He was enlarged on bail. But he could not continue to appear regularly. Therefore warrant of arrest was issued against him and the case against him was transferred to the list of long pending cases. The petitioner was employed abroad. He could not therefore appear before the learned Magistrate. He has now returned to India. He wants to appear before the learned Magistrate. But he apprehends that when he appears his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He relies on the decision in **Biju** v. **State of Kerala** (2007 (2) KLT 280). It is in these circumstances that he prays that appropriate directions may be issued to the learned Magistrate under Section 482 Cr.P.C.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order to the learned counsel for the petitioner.

(R. BASANT)
Judge

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